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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,825	09/05/2003	George O. Podd	SL-101	7153

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PAULEY PETERSEN & ERICKSON  
2800 WEST HIGGINS ROAD  
SUITE 365  
HOFFMAN ESTATES, IL 60195

EXAMINER

CHEN, JOSE V

ART UNIT PAPER NUMBER

3637

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/655,825

Applicant(s)

PODD ET AL

Examiner

José V. Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-15 and 17-27 is/are rejected.
- 7) ☒ Claim(s) 7 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 09/05/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23, 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Permenter. The patent to Permenter teaches structure as claimed including desk (10), legs (12) pivotally connected and having a concave portion, the concave portion forms a handle.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Permenter in view of Randall. The patent to Permenter teaches structure substantially as claimed as discussed above including leg structure, the only difference being that the edge portion of the legs are not of arcuate shape. However, the patent to Randall (at 20) teaches the use of an arcuate shaped edge to facilitate ergonomics to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Permenter to include an arcuate shaped edge, as taught by Randall since such structures are conventional alternative legs used in the same intended purpose, thereby providing structure as claimed.

Claims 1, 3, 4, 5, 6, 8, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chubb in view of Otte. The patent to Chubb teaches structure substantially as claimed including base (12), top portion (14), legs (46, 48) the only difference being that the legs are not locked in the extended position by a snap element. However, the patent to Otte (figs. 3, 5) teaches the use of a snap element to lock the leg in the extended position. It would have been obvious at the time of the invention to modify the structure of Chubb to include a snap element to lock the position of the leg, as taught by Otte since such structure is used in the same intended purpose and environment, thereby providing structure as claimed.

Claims 2, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chubb in view of Otte as applied to the claims above, and further in view of Topps et al. The patent to Chubb in view of Otte teaches structure substantially as claimed as discussed above including storage space, the only difference being that the space is not

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a plurality of compartments. However, the patent to Topps et al teaches the use of providing a plurality of compartments to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Chubb in view of Otte to include a plurality of compartments, as taught by Topps et al since such structure are conventional alternative structures used in the same intended purpose thereby providing structure as claimed.

Claims 9, 10, 13, 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chubb in view of Otte as applied to the claims above, and further in view of Permenter. The patent to Chubb in view of Otte teaches structure substantially as claimed as discussed above including leg structure, the only difference being that the legs do not include a concave portion. However, the patent to Permenter teaches the use of providing a concave outer portion to provide for ergonomics to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Chubb in view of Otte to include a concave portion, as taught by Permenter since such structures provide alternative conventional ergonomic advantages, thereby providing structure as claimed.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chubb in view of Otte as applied to the claims above, and further in view of Randall. The patent to Chubb in view of Otte teaches structure substantially as claimed as discussed above including leg structure the only difference being that the edge portion of the legs are not of arcuate shape. However, the patent to Randall(at 20) teaches the use of an arcuate shaped edge to facilitate ergonomics to be old. It would have been obvious and

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well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Chubb in view of Otte to include an arcuate shaped edge, as taught by Randall since such structures are conventional alternative legs used in the same intended purpose, thereby providing structure as claimed.

Claims 14, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chubb in view of Otte and Permenter as applied to the claims above, and further in view of Topps et al. The patent to Chubb in view of Otte and Permenter teaches structure substantially as claimed as discussed above including storage space, the only difference being that the space is not a plurality of compartments. However, the patent to Topps et al teaches the use of providing a plurality of compartments to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Chubb in view of Otte and Permenter to include a plurality of compartments, as taught by Topps et al since such structure are conventional alternative structures used in the same intended purpose thereby providing structure as claimed.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chubb in view of Otte and Permenter as applied to the claims above, and further in view of Randall. The patent to Chubb in view of Otte and Permenter teaches structure substantially as claimed as discussed above including leg structure the only difference being that the edge portion of the legs are not of arcuate shape. However, the patent to Randall(at 20) teaches the use of an arcuate shaped edge to facilitate ergonomics to be old. It would have been obvious and well within the level of ordinary skill in the art at the

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time of the invention was made to modify the structure of Chubb in view of Otte to include an arcuate shaped edge, as taught by Randall since such structures are conventional alternative legs used in the same intended purpose, thereby providing structure as claimed.

### ***Allowable Subject Matter***

Claims 7, 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

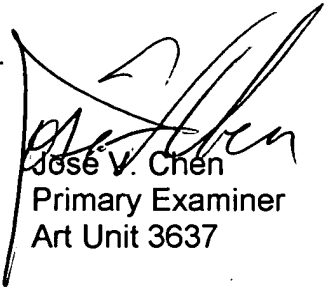
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Geschwender, Gordon, Reyes, Weitzman et al, Eisenberg teach structure similar to applicant's.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José V. Chen whose telephone number is (703) 308-3229. The examiner can normally be reached on m-f, m-th 5:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703)308-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



José V. Chen  
Primary Examiner  
Art Unit 3637

Chen/jvc  
11-10-04